

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

TERRY WILLIAMS §
VS. § CIVIL ACTION NO. _____
KENNETH WAYNE DOWDEN, §
LARRY ALEXANDER and §
SCOOTERS, INC. §

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, Plaintiff, TERRY WILLIAMS complaining of Defendants, KENNETH WAYNE DOWDEN, LARRY ALEXANDER AND SCOOTERS, INC. and for cause of action would show the Court the following:

I.

Venue and Jurisdiction

Plaintiff is a resident of Center, Shelby County, Texas.

Defendant, KENNETH WAYNE DOWDEN, is a resident of Hornbeck, LA and can be served with citation at his address 918 Braley Street, (P. O. Box 68) Hornbeck, LA, 74116.

Defendant, LARRY ALEXANDER residing in Hornbeck LA and can be served with citation at his address 147 Curtis Road, Hornbeck, LA 71439.

Defendant, SCOOTERS, INC. Is a Louisiana Business corporation located in Leesville, LA, and can be served by serving its registered agent, LARRY ALEXANDER, 147 Curtis Road, Hornbeck, LA 71439.

This Court has jurisdiction over this matter pursuant to 28 U. S.C. §1332(a)(1) because of the following:

1. Plaintiff is a resident of the State of Texas;
2. Defendant, KENNETH WAYNE DOWDEN is a resident of Hornbeck, LA.
3. Defendant, LARRY ALEXANDER is a resident of Hornbeck, LA.
4. Defendant, SCOOTERS, INC. Is a Louisiana Corporation.
5. The amount in controversy exceeds \$75,000.00.

II.

Facts

On or about June 20, 2012, in Panola County, Texas, Plaintiff, was driving his 2005 Dodge Stratus vehicle and was traveling northbound on US 59 in the inside lane and had stopped for the red light behind another vehicle when suddenly and without warning, the Defendant, KENNETH WAYNE DOWDEN, who was driving a 2000 International truck drove his truck from the center median and collided into Plaintiff's vehicle. The 2000 International truck driven by Defendant KENNETH WAYNE DOWDEN was owned and/or operated by Defendant, LARRY ALEXANDER AND/OR SCOOTERS, INC. As a result of this collision, Plaintiff sustained severe injuries and damages to his neck, shoulders, back, and left hip.

III

Causes of Action

At the time and on the occasion above-described, the Defendant, KENNETH WAYNE DOWDEN was guilty of the following acts of negligence:

1. In failing to yield right of way;
2. In failing to properly apply brakes in order to avoid the collision;

3. In failing to keep a proper lookout;
4. In driving in a reckless manner.

TRC 545.401 RECKLESS DRIVING; OFFENSE.(a) A person commits an offense if the person drives a vehicle in willful or wanton disregard for the safety of persons or property.

5. In turning when unsafe;

TRC 545.103 Safely Turning states “An operator may not turn the vehicle to enter a private road or driveway, otherwise turn the vehicle from a direct course, or move right or left on a roadway unless movement can be made safely.

Each of the above described acts of negligence was a proximate cause of the occurrence in question and resulting injuries and damages to the Plaintiff.

IV.

Negligence Per Se

The actions and conduct of the Defendant as set out in paragraph III, are in violation of the traffic laws contained in Chapter 545 of the Transportation Code of the State of Texas, which constitutes negligence per se, for which the Plaintiff intends to rely on at the trial, as said negligence per se is a proximate cause of the occurrence in question and resulting damages and injuries to the Plaintiff.

V.

Damages

As a result of the above described negligence and negligence per se, the Plaintiff, TERRY WILLIAMS has been injured in the following respects:

1. Past physical pain, suffering, and mental anguish;
2. Hospital, medical, doctor, ambulance and pharmaceutical bills incurred in the past;
3. Physical impairment to the person of the Plaintiff that has been incurred in the past;

4. Physical pain, suffering, and mental anguish that the Plaintiff will, in all reasonable medical probability, suffer in the future;
5. Hospital, doctor, medical, and pharmaceutical bills which the Plaintiff will, in all reasonable medical probability, incur in the future;
6. Physical impairment to the person of the Plaintiff which, in all reasonable medical probability, she will suffer in the future;
7. Loss of earnings in the past;
8. Loss of earning capacity in the future;
9. Physical disfigurement that said Plaintiff has suffered in the past;
10. Physical disfigurement that Plaintiff will, in all reasonable medical probability, suffer in the future.

VI

Doctrine of Respondeat Superior

At the time of the collision in question KENNETH WAYNE DOWDEN was an agent, servant and employee of LARRY ALEXANDER and/or SCOOTERS, INC. and he was in the course and scope of his employment and engaged in the service of and in the furtherance of such business at the time of the collision on the date in question. Specifically, the Plaintiff will show that LARRY ALEXANDER and/or SCOOTERS, INC. had the right to control all of the activities of KENNETH WAYNE DOWDEN at all times material hereto and that these activities included driving the truck involved in the collision in question. Accordingly, KENNETH WAYNE DOWDEN was in the course and scope of his employment with LARRY ALEXANDER and/or SCOOTERS, INC. at the time of the collision in question, and therefore, LARRY ALEXANDER and/or SCOOTERS, INC. is responsible for all of Plaintiff's damages under the doctrine of respondeat superior.

VII.

Interest

The Plaintiff hereby seeks all Pre-Judgment and Post-Judgment Interest in the maximum amounts as allowed by law on each separate and individual element of damage.

VIII.

Plaintiff's Life Expectancy

According to the United States Life Tables, 2006 National Vital Statistics Reports; Vol. 58, No. 21, Plaintiff has a life expectancy of 42.6 years and Plaintiff intends to use a certified copy of the United States Life Tables, 2006 National Vital Statistics Reports; Vol. 58 No. 21, and offer same into evidence at the time of trial.

IX.

Request for Jury Trial

Plaintiff hereby requests a trial by jury.

Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that upon a final hearing he have judgment against the Defendants, KENNETH WAYNE DOWDEN, LARRY ALEXANDER AND SCOOTERS, INC. jointly and severally, for the injuries and damages he sustained in excess of the minimum jurisdictional limits of the Court; for pre-judgment interest; for all costs of suit, and for such other and further relief, general and special, legal and equitable, to which he may be entitled to receive.

Respectfully submitted,

BADDERS LAW FIRM, PC
4002 North Street
Nacogdoches, Texas 75965
(936) 564-6181 (Telephone)
(936) 564-8095 (Facsimile)

/s/ Jeff B. Badders

Jeff B. Badders
Bar I. D. No. 01496850
Attorney for Plaintiff